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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,251	07/02/2003	Bryan Eric Aupperle	RSW920030099US1 (106)	3354
46320	7590	06/16/2005	EXAMINER	
CHRISTOPHER & WEISBERG, PA 200 E. LAS OLAS BLVD SUITE 2040 FT LAUDERDALE, FL 33301			POPE, DARYL C	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/612,251	Applicant(s) AUPPERLE ET AL.	
	Examiner DARYL C POPE	Art Unit 2632	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36-7, and 11-12 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/12/2004</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

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## DETAILED ACTION

### **ART REJECTION:**

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1,6-7, and 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Okamura(6,834,800).**

-- In considering **claims 1,6, and 11** the claimed subject matter that is met by Okamura includes:

1) the plurality of radio frequency identification tags storing tag data is met by the ID tags(120,121);

2) the selected ones of tags programmed with data associating tags with one another is met by the tag(120) which stores data pertaining to merchandise numbers of merchandise control tag(121) which may be removed by the tag(120)(see: column 3, lines 9-33);

3) the RFID reader/interrogator verification device(100) which includes controller(102), in conjunction with the read/write device(109), the controller(102)

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controlling operation of the read/write device(109) to read and write data for the tags(120,121)(see: column 3, lines 40-42);

3) the matching logic programmed to determine association between tags and objects is met by the operation of the controller(102, column 4, lines 27 et seq).

-- **Claims 7 and 12** recite subject matter that is met as discussed in claim 6 above, as well as:

1) the step of determining whether at least a portion of the tag data matches is met by the controller(102) determining that a verification of merchandise is normal(column 4, lines 40-43), and verification of merchandise is in error(see: column 4, lines 44-52).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 2-3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okamura.**

-- In considering **claim 2**, although Okamura teaches the read/write device(109) being separate from the verification device(100), it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the functions of the read/write device(109) into the verification device, since the controller(1002) of the verification device controls all functions of all devices in the system, and therefore

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incorporating the device(109) into the device(100) would have conserved space, and as well would have reduced circuit complexity by alleviating the need for transceiver(101) for communicating with the device(109), since all devices would have been all inclusive as part of the device(100).

As well, all other claimed subject matter is met as discussed in claim 1 above.

-- In considering **claim 3**, it would have been obvious that the objects would have comprised purchased goods in a retail store with respective receipts, since Okamura teaches a merchandise inventory management system wherein the system is utilized for prevention of theft during the retrieval of merchandise in a stockroom(see: column 3, lines 9-16), which would have readily applied to the retrieval of purchased goods in a retail store. Furthermore, it would have also been obvious to include respective receipts for the purchase of the goods, since this would have helped in ascertaining the correct merchandise, and as well would have ensured correct coding of the personal ID pertaining to the correct merchandise to be removed.

As well, the examiner takes Official Notice that use of conveyor belts for carrying purchased goods in a stockroom is well known, and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement a conveyor belt in proximity to the verification device(100) in conjunction with the read/write device(109) of Okamura, since this would have reduce the ability to abscond with unauthorized merchandise by the personnel, since the device(100,109) would have been right near retrieval of the merchandise as it would have come off of the belt.

***Allowable Subject Matter***

5. **Claims 4-5, and 8-10** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARYL C POPE whose telephone number is (571) 272-2959. The examiner can normally be reached on M-TH 8:00-6:30.

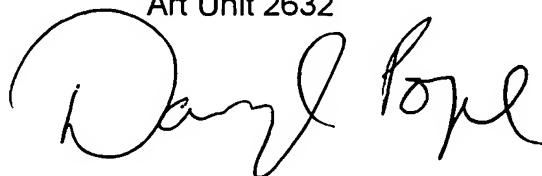
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DANIEL WU can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daryl C. Pope

March 20, 2005

DARYL C POPE  
Primary Examiner  
Art Unit 2632

A handwritten signature in black ink, appearing to read "Daryl C. Pope", is written over the printed name and title.